

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT,

OAH Case No. 2015021037
[Primary Case]

LOS ANGELES UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015070484

ORDER GRANTING MOTION TO
CONSOLIDATE AND GRANTING
MOTION TO CONTINUE
CONSOLIDATED CASES

On May 13, 2015, Student filed an Amended Request for Due Process Hearing in OAH case number 2015021037 (Student's Case), naming Los Angeles Unified School District (District).

On July 13, 2015, District filed a Request for Due Process Hearing in OAH case number 2015070484 (District's Case), naming Student.

On July 17, 2015, District filed a Motion to Consolidate Student's Case with District's Case and to continue the due process hearing date set in District's Case to the dates agreed upon in Student's Case. Student did not object to the motion.

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Student's Case and District's Case involve common questions of law and fact: whether District properly assessed Student in the January-February 2014 psycho-educational assessment; April 2015 psycho-educational assessment; and District's April-May 2015 speech and language

and occupational therapy assessments. District seeks an order that the assessments were appropriate and that District is not required to reimburse Parents for independent assessments. Student seeks an order that District's assessments were not appropriate and reimbursement for Parent provided assessments. While Student's Case contains more issues and additional remedies, Student does not object to consolidation. In addition, consolidation furthers the interests of judicial economy because there is likely to be substantial overlap in the witnesses and documentary evidence involved in the consolidated issues. Accordingly, consolidation is granted.

Continuance

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

District's motion to continue the hearing demonstrates good cause for a continuance based on the unavailability of witnesses and counsel on the dates currently set in District's Case. District represents that Student's counsel agrees to the continuance requested and Student did not object to District's motion. District requests a continuance of the dates currently set in District's Case to the agreed upon dates in Student's Case. Accordingly, the consolidated matter will proceed on the dates set in Student's Case and Student's Case will be designated the primary case.

ORDER

1. District's Motion to Consolidate is granted.
2. All dates previously set in District's Case, OAH Case Number 2015070484, are vacated.
3. District's Motion to Continue is granted. The Prehearing Conference in the consolidated cases shall be held on September 18, 2015. The Due Process Hearing in the consolidated cases shall be held on September 28, 29, 30, 2015 and October 1 and 6, 2015, and continuing day to day at the discretion of the Administrative Law Judge.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in Student's Case, OAH Case Number 2015021037, which is also the primary case for all further filings.

DATE: July 27, 2015

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings